

In re Patent Application of:
DE LAENDER ET AL.
Serial No. 10/660,067
Filing Date: **September 11, 2003**

REMARKS

Applicants would like to thank the Examiner for the thorough examination of the present application. The independent claims have been amended to more clearly define the present invention over the cited prior art reference. The claims have also been amended to correct a spelling error, and to positively recite the fasteners as helpfully noted by the Examiner

Paragraphs 5 and 21 in the application have been amended to more clearly illustrate the claimed invention as provided below. The claim amendments and arguments supporting patentability of the claims are also provided below.

I. The Claimed Invention

The present invention, as recited in amended independent Claim 64, is directed to a pallet comprising a top support member for supporting cargo, a bottom support member, and a plurality of solid support blocks for separating the top and bottom support members so that a lifting member can be inserted therebetween. Each solid support block comprises a composite material entirely devoid of any openings and comprising at least one cellular material and at least one thermoplastic material, and having upper and lower support member fastening surfaces for defining respective upper and lower support member fastener areas. A plurality of fasteners fasten the top and bottom support members to the plurality of solid support blocks via the respective upper and lower support member fastener areas.

Independent Claim 82 is directed to a pallet, and has been amended similar to independent Claim 64.

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II. The Drawings Support The Claimed Invention

The Examiner has taken the position that the "top support member" with the "plate" above the "cross supports" are not shown in the drawings. The Applicants submit that the top member support member comprises both the cross supports and the plate. As best illustrated in FIG. 1, the top support member 12 comprises a plurality of spaced apart cross supports 24 positioned generally parallel to each other, and at least one plate 26 coupled to an upper surface of said plurality of spaced apart cross members 24 for supporting cargo.

Paragraph 5 in the specification states that "the pallet may be formed from a top support member formed from three cross supports coupled to at least one plate." Paragraph 5 has been amended to state that the plate 26 is "at least one" plate as supported by FIG. 1. In other words, the cross supports 24 and the plates 26 both define the top support member 12. Paragraph 21 also states that "the top support member 12 may be formed from three cross supports 24 positioned generally parallel to each other and at least one plate 26 is coupled to a top surface of the three cross supports 24." (Emphasis added).

The Applicants submit that FIG. 1 supports the claimed invention with respect to the top support member.

III. The Claims Are Patentable

The Examiner rejected independent Claim 64 over the Ausavich et al. patent, and independent Claim 82 over the Ausavich

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et al. patent in view of the Welleman patent. Both of these rejections will be discussed below.

The Ausavich et al. patent is directed to a pallet with molded plastic pallet spacer feet. The molded plastic pallet spacer feet correspond to the support blocks in the claimed invention. The Examiner cited the Welleman patent as disclosing a top member of a pallet as comprising a plurality of spaced apart cross supports positioned generally parallel to each other, and a plate coupled to an upper surface of the plurality of spaced apart cross members adapted to support cargo.

In the Ausavich et al. patent, the spacer feet 1 includes hallow cylindrical segments 12, one on each side of the vertical section 10 that is solid, as shown in FIGS. 1 and 2. The Examiner has taken the position that the spacer feet in the Ausavich et al. patent includes solid portions that allows nails to be driven therethrough. The spacer feet 1 in the Ausavich et al. patent also includes a bolt hole 6 extending therethrough as well as drains holes 14 in the bottom portions thereof.

The Examiner has taken the position that when the pallet is assembled in Ausavich et al., the vertical perimeter of the support blocks (i.e., spacer feet 1) is the only exposed surface and it does not contain openings. The Examiner has also taken the position that the "for" recitations in the claims has not been given any patentable weight.

In terms of the "exposed outer surfaces," the claims have been amended to more clearly define these surfaces. In particular, the claimed invention has been amended to recite that

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each solid support block comprises a composite material entirely devoid of any openings and comprises at least one cellular material and at least one thermoplastic material, and having upper and lower support member fastening surfaces for defining respective upper and lower support member fastener areas. Consequently, the exposed outer surfaces in Ausavich et al. are completely different from the upper and lower support member fastening surfaces in the claimed invention.

Moreover, the defined upper and lower support member fastener areas in the claimed invention positively recite the area where the upper and lower support members are to be coupled to the support blocks. This is evidenced by the claim recitation of the plurality of fasteners for fastening the at least one top and bottom support members to the plurality of solid support blocks via the respective upper and lower support member fastener areas.

The Welleman patent fails to provide the noted deficiencies of the Ausavich et al. patent. Since the support blocks in the claimed invention comprise a composite material comprising at least one cellular material and at least one thermoplastic material, they advantageously dissipate energy from impacts caused by the lifting member. In addition, since each support block is solid and is entirely devoid of any openings, the fasteners can be applied through both the top and bottom support members to any portion of the defined fastener areas.

Accordingly, it is submitted that amended independent Claim 64 is patentable over the Ausavich et al. patent. Amended independent Claim 82 is similar to amended independent Claim 64.

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Therefore, it is submitted that this claim is also patentable over the Ausavich et al. patent in view of the Welleman patent.

In view of the patentability of amended independent Claims 64 and 82, it is submitted that the dependent claims, which include yet further distinguishing features of the invention are also patentable. These dependent claims need no further discussion herein.

IV. CONCLUSION

In view of the amendments to the claims and the arguments provided herein, it is submitted that all the claims are patentable. Accordingly, a Notice of Allowance is requested in due course. Should any minor informalities need to be addressed, the Examiner is encouraged to contact the undersigned attorney at the telephone number listed below.

Respectfully submitted,



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CERTIFICATE OF FACSIMILE TRANSMISSION

I HEREBY CERTIFY that the foregoing correspondence
has been forwarded via facsimile number 571-273-8300 to the
Commissioner for Patents on this 6 day of November, 2007.

